

**REMARKS**

The invention provides for *inter alia* thermochemically modified starches. Applicants discovered a simple and surprisingly effective alternative to conventional processes for preparing high quality grade thermochemically modified starches.

Pursuant to 37 C.F.R. 1.136(a), Applicants petition the Assistant Commissioner to extend the time period to file a response by one (1) month, i.e., up to and including June 1<sup>st</sup>, since May 29, 2004 is a Saturday. A check for \$110 is enclosed to cover the cost of the petition and a check for \$258.00 is enclosed to cover the cost of independent claims in excess of 3. It is believed that no further fee is required. If, however, an additional fee is due, the Assistant Commissioner is authorized to charge such fee, or credit any overpayment, to Deposit Account 50-0320.

The indicative that claims 29 to 39 contain allowable subject matter is greatly appreciated.

Claims 17-44 are pending. In order to advance prosecution and overcome rejections, claim 17 is amended to include amylose content of the starch and to limit the maximum moisture content of starch to about 15%. These amendments find support on page 6, line 8-11 and page 3, column 7 of the specification, respectively. Further, as suggested by the Examiner, claims 29-39 are rewritten in independent form including all of the limitations of the base claim and any intervening claims. No new matter has been added by these amendments. Further, since rewriting these claims do not narrow their scope, the application of the doctrine of equivalents is not affected.

Claims 42 is rejected under 35 U.S.C. 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants urge that amendment to claim 17, which clarifies

the “starch maximum moisture content of about 15%”, renders rejection moot. Accordingly, reconsideration and withdrawal of this rejection is requested.

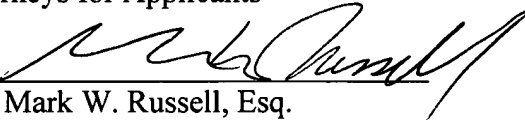
Claims 17-28 and 40-44 are rejected under 35 U.S.C. 102(b) as anticipated by or in the alternative, under 35 U.S.C. 103(a) as obvious over Wimmer et al. (U.S. 2,894,859, “Wimmer”). Since Wimmer does not teach a process for obtaining starch having any amylose content greater than 40%(w/w), it cannot anticipate the present claims and the withdrawal of the rejection is requested. Alternatively, since Wimmer does not suggest that the described process for obtaining starch results in high quality grade starch with an amylose content greater than 40% (w/w), the rejection cannot establish a *prima facie* case of obviousness. Accordingly, reconsideration and withdrawal of these rejections are requested.

The Office Action states that “Wimmer et al. discloses an anhydrous method of producing acid-modified starch for use in the manufacture of gypsum wall board” (Office Action, page 3). The method described in Wimmer “comprises contacting raw granular starch or flour in a dry state with a gaseous anhydrous hydrogen chloride, or the acid may be applied as an aqueous solution in a fine spray” Id. Wimmer states that “the resultant starch is characterized by high cold water solubles and correspondingly low reducing sugar value” (Column 5, lines 27-28). However, Wimmer does not teach a process for obtaining high quality grade starch, i.e. thermochemically modified starch with an amylose content of greater than 40%(w/w). Hence, Wimmer cannot anticipate the present invention. Moreover, it is respectfully urged that Wimmer does not suggest or motivate a skilled artisan to obtain high quality grade starch which is characterized by an amylose content of greater than 40%(w/w) because the publication is silent with respect to this issue. Accordingly, Wimmer does not render the instant invention obviousness.

In view of the foregoing, reconsideration and withdrawal of the Section 102 and Section 103 rejection are respectfully requested. Favorable action is earnestly solicited.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By 

Mark W. Russell, Esq.  
Registration No. 32,517  
745 Fifth Avenue  
New York, New York 10151  
(212) 588-0800